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The Public Service Commission State of South Carolina

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June 8, 2006

Certified Mail
Return Receipt Requested

Margaret M. Fox, Esquire
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Office of Regulatory Staff
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Weston Adams, III, Esquire
McAngus, Goudelock and Courie
700 Gervais Street, Suite 300
Columbia, SC 29201-3061

Re: Application of Aero Communications, LLC
Commission Docket No. 2006-18-C

Dear Peg, Lessie, and Weston:

Enclosed please find a proposed order in the above-captioned docket, which is being delivered to you pursuant to the requirements of 26 S.C. Code Ann. Regs. 103-865 (C). As parties of record in this Aero case, you have ten (10) days from your receipt of this proposed order to file exceptions, present briefs, and/or file written requests for oral argument to the Commission, if you should desire to do so. If none of these are received by me within 10 days of your receipt of the proposed order, I will request that

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the Commission issue its order in this case based upon the record of the formal proceeding and the proposed order.

Thank you in advance for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "F. David Butler". The signature is fluid and cursive, with the first name "F." and last name "Butler" clearly distinguishable.

F. David Butler
Hearing Examiner

FDB/dd
cc: Joseph Melchers, Chief Legal Advisor

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-18-C - ORDER NO. 2006-
JUNE 8, 2006

IN RE: Application of Aero Communications, LLC	) ORDER
for a Certificate of Public Convenience and	) GRANTING
Necessity to Provide Local Exchange and	) CERTIFICATE,
Interexchange Telecommunications Services	) APPROVING MODIFIED
Throughout South Carolina, for Modified	) ALTERNATIVE
Alternate Regulation for Interexchange	) REGULATION AND
Business Services and for Flexible Rate	) FLEXIBLE
Structure for Local Exchange Service	) REGULATION-
Offerings.	) PROPOSED ORDER OF
	) THE HEARING
	) EXAMINER

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Aero Communications Services, LLC ("Aero" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange and interexchange telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2005) and the rules and regulations of the Commission. By its Application, Aero also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and waiver of certain Commission regulations.

The Commission's Docketing Department instructed Aero to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Aero and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Aero complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC). Subsequent to the intervention, Aero and SCTC reached a Stipulation, attached hereto as Order Exhibit 2.

On Friday, May 5, 2006, Aero and ORS filed a Stipulation, which was amended at the hearing. The Amended Stipulation is attached hereto as Order Exhibit 1. A hearing was convened on June 5, 2006, at 10:00 a.m. in the Commission's Meeting Room, Columbia, South Carolina, before David Butler, Hearing Examiner. Aero was represented by Weston Adams, III, Esquire. The Office of Regulatory Staff (ORS) was represented by C. Lessie Hammonds, Esquire. SCTC did not appear at the hearing. A revised interexchange tariff and a revised local exchange tariff were entered into the evidence of the case as a composite exhibit, Hearing Exhibit 3. A revised balance sheet, dated December 31, 2005, and a document entitled "Consolidated Results of Operations" were entered into the evidence as a composite exhibit, Hearing Exhibit 4.

Todd Heinrich, President of the Company, appeared by video conferencing and testified in support of the Application. The record reveals that Aero Communications, LLC is a limited liability company duly organized under the laws of the State of Illinois,

and is registered to transact business in South Carolina. According to Mr. Heinrich, Aero currently offers residential and business end users the opportunity to originate and terminate local and long distance telephone calls to other end users through access to the local exchange network in Kentucky and Illinois. Mr. Heinrich explained the Company's request for similar authority to provide the same services to South Carolina end users, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. Heinrich also discussed Aero's technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. Heinrich offered that Aero possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, nor has it had a license revoked in any jurisdiction. The Company's Application and Mr. Heinrich's testimony both evidence that Aero's management team has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Heinrich also testified that Aero will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Heinrich offered that approval of Aero's Application would serve the public interest by increasing the level of competition in South Carolina. Mr. Heinrich, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and to be allowed to keep the Company's books at its headquarters. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records

in conformance with the Uniform System of Accounts (USOA). Aero maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631. Finally, Aero requests a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, regarding the provision of a map of the Company's service area.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Aero is a limited liability company formed under the laws of the State of Illinois, and is authorized to do business in the State of South Carolina by the Secretary of State.
2. Aero has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.
3. Aero desires to operate as a provider of facilities-based and resold local and interexchange exchange telecommunications services in South Carolina.
4. We find that Aero possesses the managerial experience and capability to operate as a provider, through both facilities and resale, of interexchange and local exchange services in South Carolina.

5. We find, based on the financial statements submitted by the Company and the testimony, that Aero possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Aero to operate as a reseller and facilities-based provider of interexchange and local exchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, by providing an alternative source for telecommunications services, and by creating incentives for lower prices, more innovative services, and more responsive customer service.

7. Aero has no current plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Aero's requested waiver reasonable and understands the difficulty presented to Aero should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable. Additionally we find that a waiver of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3 are reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1) (Supp. 2005). Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application.

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3) (Supp. 2005).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4) (Supp. 2005).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2) (Supp. 2005).

12. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2005).

CONCLUSIONS OF LAW

1. The Commission concludes that Aero possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Aero will participate in the support of universally available telephone service at affordable rates to the extent that Aero may be required to do so by the Commission.

3. The Commission concludes that Aero will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Aero's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Aero will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by Aero and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Aero to provide resold and facilities-based intrastate interexchange and local exchange telecommunications services.

8. The Commission adopts a rate design for Aero for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. Aero shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Aero shall

file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp.2005).

10. The Commission concludes that Aero's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However,

pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. The Commission concludes the Company’s local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company’s competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels previously approved by the Commission. Further, the Company’s local exchange service tariff filings are presumed valid upon filing, subject to the Commission’s right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the

Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

12. We conclude that Aero's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631, which requires publication of a local telephone directory, and waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which requires production of a map of the Company's service area.

13. The Stipulations between the parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Aero to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale and/or facilities-based service by tariffs of carriers approved by the Commission, as well as to provide resold and/or facilities-based local exchange telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Aero shall file its revised tariff and an accompanying price list for any applicable rates within

thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Aero-ORS Stipulation.

4. Aero is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Aero shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Aero changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Aero shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Aero shall comply with the imputation standard as adopted by Order No. 93-462.

8. Aero shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Aero

shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp or at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund (USF) worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with

general management duties as well as emergencies which occur during non-office hours. Aero shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Aero requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2005), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that Aero’s principal headquarters will be located outside of South Carolina. Aero requests permission to maintain its books and records at its headquarters in its home office. The Commission finds Aero’s requested waiver reasonable and understands the difficulty presented to Aero should the waiver not be granted. The Commission therefore grants the requested waiver that Aero be allowed to maintain its books and records at its principal headquarters. However, Aero shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Aero shall promptly notify the Commission and ORS if the location of its books and records changes.

12. Aero also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform

System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Aero maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers and other providers. Accordingly, Aero requests an exemption from the USOA requirements. We grant the Company's request for the reasons stated above.

13. Aero is required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Aero to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, Aero shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.

14. The Stipulations between the various parties are hereby approved.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice-Chairman

(SEAL)